

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: December 17, 2003

Division: District 1

Bulk Item: Yes X No

Department: Commissioner Dixie M. Spehar

AGENDA ITEM WORDING:

Approval to advertise an Ordinance adopting a curfew for minors sixteen years of age and younger for unincorporated Monroe County. The Ordinance addresses sixteen years and younger from 11:00 PM to 5:00 AM, weekdays and 12:01 AM to 6:00 AM on weekends. Legal holidays are excluded.

ITEM BACKGROUND:

This coincides with the State of Florida's drivers license regulations that prohibits drivers sixteen years and younger from driving without an adult after 11 PM.

PREVIOUS RELEVANT BOCC ACTION:

CONTRACT/AGREEMENT CHANGES:

STAFF RECOMMENDATIONS:

Approval to advertise for ONE PUBLIC HEARING on January 21, 2004 in Key West.

TOTAL COST:

BUDGETED: Yes No

COST TO COUNTY:

SOURCE OF FUNDS:

REVENUE PRODUCING: Yes No **AMOUNT PER MONTH** **Year**

APPROVED BY: County Atty X OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:

Dixie M. Spehar
Commissioner Dixie M. Spehar

DOCUMENTATION: Included X To Follow Not Required

DISPOSITION:

AGENDA ITEM # **04**

ORDINANCE NO. - 2004

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, ADOPTING A CURFEW FOR MINORS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the congregating of minors in public places at certain times and under certain circumstances is conducive to the promotion of criminal activity and violence; and

WHEREAS, the Florida Legislature has recognized the need for protection of minors from harm and victimization, promotion of the safety and well-being of minors and reduction of the crime and violence committed by minors, thereby authorizing counties and municipalities with the option of adopting a local juvenile curfew ordinance by incorporating by reference the provisions of Florida Statutes 877.20 through 877.25; and

WHEREAS, the County Commission of Monroe County has determined that it is in the best interest of the County and the welfare of its residents, particularly minors, to adopt a curfew ordinance in compliance with sections 877.20 through 877.25, FS; now, therefore

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. Definitions

As used in this ordinance, the term:

(1) *Emergency* means an unforeseen combination of circumstances which results in a situation that requires immediate attention to care for or prevent serious bodily injury, loss of life, or significant property loss. The term includes, but is not limited to, a fire, a natural disaster, or an automobile accident.

(2) *Establishment* means a privately owned place of business to which the public is invited, including, but not limited to, a place of amusement or a place of entertainment.

(3) *Minor* means any person under 16 years of age.

(4) *Parent* means a person who has legal custody of a minor as a:

- (a) Natural or adoptive parent
- (b) Legal guardian
- (c) Person who stands in loco parentis to the minor
- (d) Person who has legal custody of the minor by order of the court.

(5) *Public place* means a place to which the public has access, including, but not limited to, streets, highways, public parks, and the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, and shops.

(6) *Remain* means to stay unnecessarily in a particular place.

Section 2. Minors prohibited in public places and establishments during certain hours; penalty; procedure.

(1) (a) A minor may not be or remain in a public place or establishment between the hours of 11:00 PM and 5:00 AM of the following day, Sunday through Thursday, except in the case of a legal holiday.

(b) A minor may not be or remain in a public place or establishment between the hours of 12:01 AM and 6:00 AM on Saturdays, Sundays, and legal holidays.

(2) A minor who has been suspended or expelled from school may not be or remain in a public place, in an establishment, or within 1,000 feet of a school during the hours of 9:00 AM to 2:00 PM during any school day.

(3) A minor who violates this section shall receive a written warning for her or his first violation. A minor who violates this section after having received a prior written warning is guilty of a civil infraction and shall pay a fine of \$50 for each violation.

(4) If a minor violates a curfew and is taken into custody, the minor shall be transported immediately to a police station or to a facility operated by a religious, charitable, or civic organization that conducts a curfew program in cooperation with a local law enforcement agency. After recording pertinent information about the minor, the law enforcement agency shall attempt to contact the parent of the minor and, if successful, shall request that the parent take custody of the minor and shall release the minor to the parent. If the law enforcement agency is not able to contact the minor's parent within 2 hours after the minor is taken into custody, or if the parent refuses to take custody of the minor, the law enforcement agency may transport the minor to her or his residence or proceed as authorized under section 39.401, et seq., FS.

Section 3. Legal duty of parent; penalty.

(1) The parent of a minor has a legal duty and responsibility to ensure that the minor does not violate section 2(1), above.

(2) The parent of a minor has a legal duty and responsibility to personally supervise, or arrange for a responsible adult to supervise, the minor so that the minor does not violate section 2(2), above.

(3) The parent of a minor who knowingly permits the minor to violate section 2(1) or (2), above, shall receive a written warning for a first violation. A parent who knowingly permits the minor to violate section 2(1) or (2), above, after having received a prior written warning is guilty of a civil infraction and shall pay a fine of \$50 for each violation.

Section 4. Nonapplication of ordinance.

The prohibitions of this ordinance do not apply to a minor who is:

(1) Accompanied by his or her parent or by another adult authorized by the minor's parent to have custody of the minor.

(2) Involved in an emergency or engaged, with his or her parent's permission, in an emergency errand.

(3) Attending or traveling directly to or from an activity that involves the exercise of rights protected under the First Amendment of the United States Constitution.

(4) Going directly to or returning directly from lawful employment, or who is in a public place or establishment in connection with or as required by a business, trade, profession, or occupation in which the minor is lawfully engaged.

(5) Returning directly home from a school-sponsored function, a religious function, or a function sponsored by a civic organization.

(6) On the property of, or on the sidewalk of, the place where the minor resides, or who is on the property or sidewalk of an adult next-door neighbor with that neighbor's permission.

(7) Engaged in interstate travel or bona fide intrastate travel with the consent of the minor's parent.

(8) Attending an organized event held at and sponsored by a theme park or entertainment complex as defined in section 509.013(9), FS.

Section 5. Local ordinance required; effect.

This ordinance does not apply in any municipality unless the governing body of the municipality adopts an ordinance that incorporates by reference the provisions of sections 877.20-877.24, FS.

Section 6. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 7. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 8. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 9. This ordinance shall take effect immediately upon receipt of official notice from the Office of the Secretary of State of the State of Florida that this ordinance has been filed with said Office.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the _____ day of _____, 2004.

Mayor Nelson
Mayor Pro Tem Rice
Commissioner McCoy
Commissioner Neugent
Commissioner Spehar

(SEAL)
Attest: DANNY L. KOLHAGE, Clerk

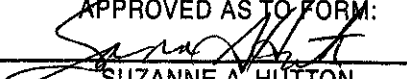
BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor/Chairperson

jordcurfew

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:


SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date 12/01/03